

February 17, 2009

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Angela T. Burke  
Gateway Regional School District  
12 Littleville Road  
Huntington, MA 01050

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re:      Applicant Name:                      Gateway Regional School District  
         Billed Entity Number:              120048  
         Form 471 Application Number:      632806  
         Funding Request Number:          1749873  
         CC Docket Number:                  02-6

Request for Review  
Request for Waiver (if appropriate)

Dear Ms. Dortch:

I am writing to request that you review the Universal Service Administrative Company's decision to deny Gateway Regional School District's appeal of its Year 2008 Funding Commitment Decision Letter. (All correspondence related to this matter is attached.) If, upon completing this review, you determine that addressing this issue requires a waiver of the Schools and Libraries Support Mechanism competitive bidding rules related to the timing of the Contract Award Date in relation to the Certification Postmark Date of the Form 471, I am also requesting such a waiver.

USAC denied Gateway's appeal for \$31, 922.52 based on a number of technical and ministerial errors stemming from personnel turnover here at Gateway and conflicting guidance from USAC itself. I began working for Gateway on February 1, 2008; the employee who had submitted the original FCC Form 470 was no longer working at Gateway at the time I started. Upon joining Gateway I was told that the deadline for submitting the Form 471 was February 7, 2008. I was also told that a service provision contract needed to be signed prior to the submission of the Form 471.

In order to ensure that these activities were sequenced properly, I called USAC (Case # 21692614) to ask the appropriate date to sign the service provision contract and was told to sign it on February 6, which I did. (It was subsequently listed as February 8 on the Form 271, but this was a clerical error that has been resolved with the USAC.) I was not told that signing on that date would cause a problem due to the need for the 28-day posting period. Based on the date the Form 470 was submitted, this 28-day period would have expired on February 7, one day after the contract was signed. Given that no bids were received during or after the posting period, this one-day period had no practical impact on the procurement process or outcome.

Gateway is a rural school district serving a number of small communities in western Massachusetts. We have received E-Rate funding each year since 1999 without incident. The current problem would not have occurred but for unavoidable staff turnover and well-intentioned

clerical errors based on mutual misunderstandings between Gateway and USAC customer support staff. I believe these errors do not warrant the loss of over \$30,000, which will have a severe impact on Gateways' students, an impact exacerbated by the current economic climate. In order to cover this loss of E-rate funding the district eliminated the planned replacement of decades old textbooks for FY'09 and will not be able to fund these textbooks in the foreseeable future. (See attached letters from Sen. John Kerry and Rep. John Olver, which support our request for a waiver.)

As the FFC noted in granting a number of waivers under *Adams County School District 14, Commerce City CO et al* (March 27, 2008):

Competitive bidding requirements serve as a central tenet of the E-rate program. They ensure more efficient pricing for telecommunications and information services purchased by schools and libraries and help deter waste, fraud and abuse. Rigid adherence to the rule in these cases, however, does not further the purposes of the statutory goal mandated by Congress of preserving and advancing universal service for schools and libraries. Furthermore, we note granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund).

And

These mistakes do not warrant the complete rejection of these Petitioners' applications for E-rate funding. Importantly, these appeals do not involve a misuse of funds. The Commission recently found in Bishop Perry Middle School that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

I believe that Gateway's situation, though not directly analogous with that of the schools granted waivers under the *Adams County* decision, is very similar. I will be happy to answer any questions or provide any additional materials you may need in support of this request, please contact me at 413-685-1020 or [aburke@grsd.org](mailto:aburke@grsd.org). Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Angela T. Burke', with a stylized flourish at the end.

Angela T. Burke